IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1776 OF 2005

Mr.Derek Soares ..Petitioner

Vs.

State of Maharashtra & Anr. ...Respondents

...

Mr.Sachin Masurkar Advocate for Petitioner
Mr.Y.S.Shinde A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : SEPT. 15,2005

P.C.

1. Heard the learned advocate for the petitioner and the learned A.P.P. for the State.

2. The petitioner is seeking quashing of process issued by the learned Metropolitan Magistrate, 9th Court, Bandra, Mumbai in C.C.No.2829/S/2004. In the said case process was issued against the petitiner under Section 138 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode reported in 2005(3) Mh.L.J.778,** I

am of the opinion that the petitioner has an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the petitioner prefers a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the petitioner to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the petitioner makes a statement that the necessary revision will be preferred within four weeks from today. I am informed that next date before the trial Court is 13.10.2005. In view of this statement, the trial Court shall not proceed on 13.10.2005 and one week thereafter.

5. On the necessary revision being preferred by the petitioner before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Writ Petition is disposed of.

[V.K.TAHILRAMANI,J.]